IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

WP(C).No. 21538 of 2006(L)

CMA.55/2001 OF DISTRICT COURT, KOLLAM

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PETITIONER:

MANIKANTAN NAIR, S/O.PARAMESWARAN PILLAI, MULLASSERIL VEEDU, MEENATHU CHERRY, SAKTHIKULANGARA, KOLLAM.

BY ADV. SRI.DEEPU THANKAN

RESPONDENTS:

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1. RATHEESH, S/O.SUDHEVAN, MOHANALAYAM, MEENATHU CHERRY, SAKTHIKULANGARA, KOLLAM.

2. RAJESWARI AMMA, D/O.BHAVANI AMMA, KALEELU VADAKKATHIL, MEENATHU CHERRY, SAKTHIKULANGARA, KOLLAM.

3. SUSEELAN NAIR, S/O.MADHAVAN PILLAI, THYVILAYIL VEEDU, MEENATHU CHERRY, SAKTHIKULANGARA, KOLLAM.

4. RATHIKUMARI, W/O.SESEELAN NAIR, THYVILAYIL VEEDU, MEENATHU CHERRY, SAKTHIKULANGARA, KOLLAM.

BY ADV. SRI.K.SUBASH CHANDRA BOSE -- R1 TO R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 21538/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PLAINT FILED BY THE PETITIONER.

EXT.P2. COPY OF THE ORDER OF THE ADDITIONAL MUNSIFF COURT, KOLLAM IN IA NO. 3469/00 IN OS NO. 812/00 DT. 22/12/00.

EXT.P3. COPY OF THE ORDER OF CMA NO. 55/201 OF DIST. COURT, KOLLAM DT. 6/3/06.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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M.N.KRISHNAN, J

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W.P.(C) No.21538 OF 2006

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Dated this the 12th day of November 2007

JUDGMENT

This writ petition is filed challenging the order of the District Court, Kollam in C.M.A.No.55 of 2001. I had perused the orders of the learned Munsiff as well as the learned District Judge. The learned District Judge has observed that the attempt of the plaintiff is only to get a wider passage and that he has not come to this court with clean hands. These are two concurrent findings on facts available before court. Therefore I am not inclined to interfere with these orders and therefore the writ petition is dismissed. But, I make it clear that when the suit is tried, the trial court shall not be influenced by the observations made in the judgment of that court or of the appellate court.

M.N.KRISHNAN, JUDGE

Cdp/-